IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 526 (SS) of 2007

Smt. Malti Ghasiyal W/o Sri Chamu Singh Ghasiyal
R/o Gangola Bhawan, Gangola Mohalla, Almora
District – Almora ---------- Petitioner

Versus

1. District Education Officer, Almora
2. Additional District Education Officer (Basic) Almora
3. Block Education Officer Hawalbag District – Almora
4. Principal Government Inter College/Junior High School Siyalidhar, District Almora
5. Headmaster Junior High School Katarmal Block- Hawalbag, District-Almora

--------- Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri N.S. Negi, learned counsel for the petitioner and Sri H.M. Raturi, learned Standing Counsel State of Uttarakhand for the respondents.

By means of ther writ petition, the petitioner has prayed for the following reliefs:

1. Issue writ, order or direction in the nature of certiorari to quash the order dated 19.4.2007 (Annexure No. 4) passed by the Block Education Officer, Hawalbag, Almora so far it relates to the petitioner.
2. Issue writ, order or direction in the nature of mandamus directing the respondents not to interfere in the working of the petitioner on the post of Assistant Teacher in Junior High School, Siyalidhar, District Almora.

3. Issue any suitable order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.
4. Award cost of writ petition to the petitioner.

The stand of the petitioner is that vide order dated 14.11.2005 passed by respondent no. 2, the petitioner, who was working as L.T. Grade Teacher in Junior High School Kathpuriya, District Almora, was transferred to Junior High School Katarmal, Distrust Almora.

As alleged by the petitioner, as there were only 13 students in Junior High School Katarmal and the sanctioned strength of teachers was three, out of which two were Science teachers. Petitioner, being also a Science teacher, was attached to Junior High School Siyalidhar, District Almora vide order dated 28.11.2005.

Accordingly to petitioner, the strength of students at Siyalidhar is 159 and the post of two Science Teacher is sanctioned there and including petitioner two Science Teachers are working. In pursuance to the aforesaid order, the petitioner joined at Siyalidhar on 01.12.2005. The Government has now framed a policy not to permit attachment of teachers to the other institutions from the institution where they have been posted.

Learned Standing Counsel State of Uttarakhand has submitted that the Government has now adopted a policy not to attach any teacher in any institution or office from the institution where he/she was actually posted. The policy has been adopted in view of the facts that the teachers, who are posted in a school

which is not suitable to the concerned teacher, they managed attachment to suitable places which the result the teaching work of the institution, where they have been posted, is suffering.

In view of the policy of the Government, I do not find any merit in the case. However, to give effective implementation of the policy, it is required that the officers, who are passing orders for cancellation of attachment, must ensure that the person concerned whose attachment is cancelled, may be given posting at the place where his/her services are required.

In the present case, the total strength of students at Katarmal, as alleged by the petitioner, is 13 and as stated by the learned counsel for the petitioner, there are three teachers, out of which two posts of teachers in Science subject, are sanctioned. Two teachers of Science are already working there. Petitioner, who is also a Science teacher, has been posted at Katarmal vide order dated 14.11.2005. In fact, there was no need of transferring any Science teacher at Katarmal as there were only 13 students and two teachers of Science are already working.

In these circumstances, it would have been proper for the authority concerned to post the petitioner where her services are required. Learned counsel for the petitioner has submitted that on 19th April, 2007, the Block Education Officer, Hawalbag, Almora has written a letter to all the Head Master/ Head Mistress of the Block for cancellation of attachment of all the teachers made earlier and has directed the Head Master/ Head Mistress to relieve them at the earliest to the institution where they have been posted prior to attachment.

The petitioner is apprehending that she will be relieved in pursuance to the aforesaid order dated 19th April, 2007 for Katarmal where the strength of students is only 13 and two Science teachers are already working. The petitioner has already moved representation on 02.04.2007 before respondent no. 2, which is filed as Annexure No. 5 to writ petition.

In view of the facts that in Katarmal where the strength of students is only 13 and two Science teachers are already working, the Court is not inclined to stay the order dated 19.04.2007, which has been passed in pursuance to the policy adopted by the Government, however, the interest of justice would be met if the respondent no. 2 is directed to decide the representation of the petitioner dated 02.04.2007 filed as Annexure No. 5 to the writ petition prior to relieving the petitioner from Junior High School Siyalidhar and to post her in an institution where the services of the petitioner are required and the real intention of the policy adopted by the Government is fulfilled.

In these circumstances, I deem it fit and proper to direct the respondent no. 2 to take decision in the case of petitioner after considering the representation of the petitioner and shall post him in an institution where the services of the petitioner are required and not in an institution where the services of the petitioner are not required.

With this direction, the writ petition is finally disposed of. All the pending applications stand disposed of.

16.05.2007 **(M.M. Ghildiyal, J.)**
VKS